



THE COMMONWEALTH OF MASSACHUSETTS
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June 29, 2006

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, Massachusetts 02110

RE: *Department Investigation into Compliance with G.L. c. 164, § 116B*, D.T.E. 06-48

Dear Secretary Cottrell:

On May 19, 2006, the Department of Telecommunications and Energy (the "Department") issued an order ("Order") opening an investigation into compliance with the gate box maintenance and improvement requirements of G.L. c. 164, § 116B ("Section 116B"), by gas companies and municipal gas departments established under the provisions of Chapter 164 (the "operators"). Pursuant to the Department's Order, the Attorney General submits this letter as his Comments on gate box maintenance and improvement requirements.

I. PROCEDURAL HISTORY

In its Order, the Department ordered all operators to submit their policies and procedures that address compliance with Section 116B by June 6, 2006. The operators submitted (1) the relevant portion of their operation and maintenance ("O&M") Plans that address compliance with Section 116B; (2) a report of all service territory streets paved in 2005 and the date the gate boxes were made "easily and immediately accessible;" (3) the relevant portion of their O&M Plans that delineates policies concerning how operator employees collect data to ensure compliance with Section 116B; (4) all relevant evidence that operators are in compliance with Section 116B; and (5) all relevant evidence that demonstrates that all valves on the operator's mains and all curb valves on its service lines are immediately and readily accessible. *See* Order at 3-4. On June 15, 2006, the Department held a public hearing, immediately followed by a procedural conference.

II. RECOMMENDATIONS

The Department is seeking to establish standards governing how operators comply with Section 116B and to determine whether operators are properly addressing issues of gate box maintenance and improvement. The Attorney General supports the Department's efforts to ensure the operators are complying with this important safety regulation and to standardize the operators' various policies and procedures used to comply with Section 116B.

The Attorney General commissioned a Report¹ to review the current level of compliance with the relevant requirements in Massachusetts and compare how other Northeastern state regulators address these same issues. The results of the report indicate that the Department should

- (1) expand the Department's definition of "gate boxes" to include any distribution main or service line valve in a box that may be useful in an emergency;
- (2) expand operator annual valve inspection requirements to include all valves defined as gate boxes;
- (3) establish Commonwealth-wide standards for the identification of gate boxes;
- (4) expand the standard of "easily and immediately accessible" for gate boxes to prohibit any obstruction, such as dumpsters or other obstructions, from blocking quick access to valve boxes;
- (5) define the Commonwealth's and local governments' responsibilities in communicating paving plans with gas operators;
- (6) prohibit paving contractors from paving over gate boxes under threat of penalties from the Department or legal action by the operators;
- (7) require paving contractors to use the one call system to allow operators to mark out gate boxes being affected before paving if they have not already been raised before the paving project begins;
- (8) expand the Department's authority to include the imposition of meaningful penalties for operator violations of Section 116B and paving crew violations of new one call

¹ Energy Advisors, LLC prepared the Report ("Attachment 1"), *Comments and Suggestions Regarding the Massachusetts Department of Telecommunications and Energy's Investigation into Compliance with Gate Box Maintenance and Improvement Requirements of G.L. c. 164, Section 116B*, for the Attorney General in June 2006.

requirements for overlays;

(9) encourage compliance with Section 116B by sponsoring training and waiving the first penalty if the perpetrator attends remedial training; and

(10) require operators to file annual reports identifying paved-over gate-boxes.

III. CONCLUSION

The Attorney General appreciates the opportunity to present the information contained in this Report and to assist in any decisions the Department makes regarding guidelines or requirements for gate box maintenance and improvement.

Respectfully submitted,

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